IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 34829 of 1998

Between:

Puchakayala Kamalakar Rao S/o Sreenivasa Rao
R/o.Pallegudem, Khammam Rural Mandal,
Khammam District.

..... PETITIONER

AND

1 The Commissioner of Prohibition and Excise
Hyderabad Andhra Pradesh,
2 The Deputy Commissioner of Prohibition and Excise
Warangal Division, Warangal.
3 The Sub Inspector, Prohibition and Excise,
Prohibition and Excise Station, Khammam

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or direction of Writ under Article 226 of the Constitution of India, more particularly one in the nature of the Writ of Mandamus declaring the action of 2nd Respondent in passing the order No.1978/95/PE/B8 dated: 24-3-1998 confiscating the Hero Honda Motor Cycle of the petitioner bearing No.AP-2OC-477 without issuing any notice and also the action of the first respondent in passing the order in CR.No.2086/DPE/98/B2 dated: 26-10-1998 confirming the order or the Second Respondent as arbitrary, illegal, unjust and also against the principles of natural Justice.

Counsel for the Petitioner: MR.C.DAMODHAR REDDY, Advocate

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents.

Questioning the action of respondent No.2-Deputy Commissioner of Prohibition and Excise, Warangal Division, Warangal in passing the order No.1978/95/PE/B8, dated 24-3-1998 confiscating the Hero Honda motor cycle of the petitioner bearing No.AP-20C-477, without issuing him any notice, and also the action of respondent No.1-Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad in passing the order in CR.No.2086/DPE/98/B2, dated 26-10-1998 confirming the order of respondent No.2, dated 24-3-1998, the petitioner filed this writ petition.

The learned Government Pleader for Prohibition and Excise submitted that the matter relates to the offence under Section 8(b) of the Andhra Pradesh Prohibition Act, 1995 (for short "the principal Act"). She submitted that the Government has taken a policy decision to compound certain offences under the principal Act and in that direction passed Andhra Pradesh Prohibition (Amendment) Act, 2000 (Act No.17 of 2000) which was published in the Andhra Pradesh Gazette PartIV-B-Extraordinary No.23, dated 29-4-2000; and also framed rules called—The Andhra Pradesh (Compounding Offences) Rules, 2000 (for short "the Compounding Rules") by G.O.Ms.No.496, Revenue (Excise III), dated
25-7-2000, which was published in the Andhra Pradesh Gazette Extraordinary (Part II) Rules Supplement No.18, dated 27-7-2000. She further submitted that as per Rule 4 of the Compounding Rules, the Deputy Commissioner of Prohibition & Excise is empowered to compound those offences in which vehicles are involved and falling under sub-clause (i) of clause (b) of Section 8 of the principal Act. Thus, she submitted that the case of the petitioner be referred to respondent No.2-Deputy

commissioner of Prohibition and Excise for determination under the Compounding Rules.

Having regard to the above submission of the Government Pleader for Prohibition and Excise, and in view of the fact the case of the petitioner falls within the Compounding Rules, I deem it appropriate to direct the petitioner to file an application seeking compounding of the offence with respect to the vehicle in question under the Compounding Rules before respondent No.2-Deputy Commissioner of Prohibition and Excise, Warangal Division, Warangal, within a period of one month from the date of receipt of a copy of this order, and on such filing, respondent No.2 is directed to consider the same and pass appropriate orders thereon in accordance with law.

With the above observations, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Date: 21-4-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Prohibition and Excise
Hyderabad Andhra Pradesh,
2 The Deputy Commissioner of Prohibition and Excise
Warangal Division, Warangal.
3 The Sub Inspector, Prohibition and Excise,
Prohibition and Excise Station, Khammam

4 Two Ccs. to the Government Pleader for Prohibition and Excise, High Court Buildings, A.P., Hyderabad (OUT).

5 Two CD copies.

2) 1 CC to MR.DAMODHAR REDDY

*Form-NIC-OGS/WP{**KRD**}*